

GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
(Held at the GACEC Fall Planning Retreat)
Friday, October 4, 2013 at 5:45 PM
Continued Saturday, October 5, 2013 at 8:45 AM
Atlantic Sands Hotel and Conference Center
1 Baltimore Avenue, Rehoboth Beach, DE

MINUTES

MEMBERS PRESENT: Chairperson Terri Hancharick, Marie-Anne Aghazadian, Nina Bunting, Jean Butler, Dafne Carnright, Carma Carpenter, Al Cavalier, Janet Cornwell, Cathy Cowin, Helene Diskau, Jane Donovan, Bill Doolittle, Karen Eller, Danna Levy, Karen McGloughlin, Chris McIntyre, Carrie Melchisky, Janella Newman, Bill O'Neill, Robert Overmiller, Jennifer Pulcinella, Dennis Rubino, Ron Russo, Brenne Shepperson, Howard Shiber, Lavina Smith

OTHERS PRESENT: **Guests:** Sarah Celestin and Barbara Mazza, Delaware Department of Education (DOE) Staff **present:** Wendy Strauss, Executive Director, Kathie Cherry, Office Manager, Kristin Cosden, Administrative Coordinator and Sybil White, GACEC Disability Education and Awareness Program (DEAP) Coordinator.

MEMBERS ABSENT: Nancy Cordrey, Lisa Gonzon, Bernie Greenfield, Brian J. Hartman, Esq., Dave Hosier, Julie Johnson (leave of absence), Glenda Krause, Mary Ann Mieczkowski, Beth Mineo, Blake Roberts, Joann Rogers, John Ryan, Marshall Stevenson, Ray Verlinghieri, Vanessa Withers-Little (leave of absence)

Chairperson Terri Hancharick called the first portion of the meeting to order at 5:45 PM. A quorum was present. Terri handled "housekeeping" items, such as the location of the bathrooms, questions about check-in and check-out, and meal times. Wendy Strauss took a moment to thank the GACEC staff, particularly Sybil White, GACEC Disability Education and Awareness Program (DEAP) Coordinator, who handled much of the Retreat planning.

The Retreat agenda was approved with no additions or deletions. The June, July and August financial reports were approved with no changes. The June 18, 2013 minutes were approved subject to revision of the statement on page four which reads, "Insulin is necessary if the blood sugar level drops too low. Glucagon is necessary if blood sugar levels become too high." Al Cavalier pointed out that the opposite is actually true. Glucagon is used to raise blood glucose levels when they become too low. Insulin is required when blood glucose levels are too high. Wendy thanked Al for pointing out this error, and noted that it would be corrected in the June minutes.

At this time, Terri and Wendy invited Council to adjourn to the two adjacent breakout rooms for dinner. As per the schedule, dinner took place from 6:00 PM to 7:15 PM, at which time Council re-adjourned and continued their meeting.

After Council had re-adjourned, Wendy and Terri introduced presenters Sarah Celestin and Barbara Mazza from the Delaware Department of Education. Sarah introduced herself and Barbara as representing the DOE's Exceptional Children Resources division. Sarah stated that she was asked to share regards from Director of Exceptional Children Resource Mary Ann Mieczkowski, who was unable to attend the Retreat this year due to medical issues. Sarah stated that Mary Ann was scheduled to return to work the next week.

Sarah stated that normally Mary Ann provides a general overview of what is happening at Exceptional Children Resources at DOE, or discusses a topic that is specifically requested by Council. For the Retreat presentation, Sarah explained that she reached out to Wendy to suggest the topic of results-driven accountability monitoring, the practice of which is strongly encouraged by the United States Department of Education (US DOE). Sarah shared that the initial stages of the new compliance monitoring process are being implemented this school year.

Sarah informed Council that she and Barbara would be pointing out any differences between the current compliance monitoring process and the newly implemented results-driven accountability monitoring four tier process. Sarah explained that as she elaborated on the different tiers in her presentation, it was important to note that some tiers encompass all LEAs, while other tiers may only apply to LEAs that meet certain very specific criteria. Sarah stated that she would provide Council with a high-level overview and Barbara would give details on the implementation timeline. Council was encouraged to reserve questions until the end of the presentation.

Sarah explained that for over a year, DOE has been researching several state Local Education Agency (LEA) monitoring models which utilize results-driven accountability. Sarah explained that currently Delaware's LEAs associate the month of October with DOE compliance monitoring visits, and therefore have come to regard compliance monitoring as an event which only occurs once a year. During DOE's past October compliance monitoring visits, DOE reviewed Individualized Education Plan (IEP) audits, then contacted the LEA after determining the results of the IEP audits (e.g. compliant, non-compliant, areas of concern to adjust). DOE then provided feedback and support to the LEA.

Based on the data and information DOE was able to secure from other states regarding their monitoring practices, they began creating their new process for improving both compliance monitoring and monitoring of student outcomes and results. Data on student outcomes is critically important to results-driven accountability monitoring. The new results-driven accountability monitoring process includes exploration of data contained in the US DOE's Annual Determination, which is provided to Delaware's DOE after the submission of their Adequate Yearly Progress (AYP) Report. The Annual Determination or "report card" shows every Delaware LEA's compliance with Performance Indicators.

DOE's new results-driven accountability monitoring process also includes auditing and reviewing student records, consolidating grants, ensuring equitable services and effectively handling administrative complaints and due process instances. If a LEA achieves a low score in any of the areas that are monitored, or falls below the threshold of what is acceptable, this will trigger DOE to move them to a different tier that is tailored to the LEAs current status. Sarah stated that DOE is charged with providing feedback, guidance and support to individual LEAs

based on the LEAs monitoring results. DOE monitoring will now be conducted in January and February, as opposed to October and November. In the fall, DOE will be doing data analysis. In early October, districts and schools subject to monitoring are identified. The LEAs will be notified in mid-October if they are to be monitored. DOE will then proceed to their monitoring process.

Tier I consists of all LEAs who are currently meeting their requirements. Tier II is reserved for LEAs that require assistance. Tier III consists of LEAs that require intervention. Tier IV is reserved for LEAs that need significant intervention.

DOE conducts Tier I monitoring by considering LEA-submitted data and by conducting desk audits and site visits. Monitoring is based on Indicators which can be found in the Annual Determinations. Indicator 4 addresses disproportionality related to suspensions. In other words, are students with disabilities being suspended and expelled at a higher rate than their typical peers within this particular district or charter school. Indicators 9 and 10 explore disproportionate representation in special education by ethnicity or special education category. Indicator 11 considers whether or not schools are conducting special education evaluations within appropriate timelines. Indicator 12 looks at how well the LEA handles the transition of its students from Part C to Part B by their third birthday. In the past, there have been instances where LEAs did not conduct these evaluations in a timely manner, resulting in students losing services that they were entitled to under the Individuals with Disabilities Education Act (IDEA). Indicator 13 addresses secondary transition, or what students are doing once they leave school. DOE monitors student IEPs to ensure that there are transition plans in place, and that the plans are being implemented.

Consolidated grant monitoring is one of DOE's fiscal monitoring responsibilities. In the summer, all LEAs must submit an IDEA Funding Grant Application to DOE detailing how they intend to spend their IDEA funds. Commonly listed items include staffing, materials and supplies. DOE looks carefully at each grant application to ensure that the LEA has provided sufficient detail about what the IDEA funds are being designated for, and that the funds are being used appropriately. LEAs will sometimes designate IDEA funds to facilitate services or activities that are not for students who receive special education. It is DOE's responsibility to inform the LEA that this is not permissible, and to continue to monitor the funds to ensure they are being used appropriately. In the future, DOE will use each LEAs IDEA Funding Grant Application to assist the LEA in directing funds to the areas which have been identified as needing improvement. Administrative complaints and due process hearing findings are also evaluated by DOE to determine the best use of a particular LEA's IDEA funding

The Elementary and Secondary Education Act (ESEA) Flexibility Request and Waiver requires significant monitoring. Delaware's ESEA Flexibility Request and Waiver is linked to Delaware's Race to the Top (RTTT) Grant. Sarah informed Council that there is now a planning team at DOE which brings together staff from all divisions of the DOE. The team works together to monitor LEA performance measures, and to identify the areas which need the most attention. Sarah explained that this approach has proven to be beneficial, as it allows DOE staff to speak directly with LEA staff, including special education directors and superintendents. Sarah stated that this approach is proving to be particularly helpful to special education directors, as it is

helping to open the lines of communication between the special education directors and their school superintendents.

Tier II LEAs consist of districts and charters who need assistance. Tier II schools are identified based on non-compliance with Tier I requirements. Tier II schools require DOE monitoring based on risk analysis. For instance, if a district is found to have high numbers of students with disabilities who are being suspended or expelled, that would trigger DOE to request that the district conduct a self-assessment and submit it to DOE. DOE would then review the district's self-assessment, and make a determination regarding whether that district is indeed non-compliant. Once DOE determines the district to be non-compliant, the district would then be re-classified from a Tier I to a Tier II.

Following this process, DOE and the district would work together to conduct a Root Cause Analysis. This would result in the introduction and implementation and monitoring of improvement activities for the district. DOE would continue to monitor the situation by reviewing data submitted by the district, as well as conducting desk audits. DOE would also continue to conduct site visits to this district.

For a Tier II LEA, DOE's risk-based analysis looks at both compliance indicators and results indicators. Compliance indicators refer to the previously detailed Indicators 4, 9, 10, 11, 12 and 13. Results indicators consist of Indicators 1, 2, 3, 5, 6, 7 and 8. Indicators 1 & 2 explore graduation and dropout rates. Indicator 3 monitors student achievement. Indicator 5 ensures that school-age children are receiving their education and services in the Least Restrictive Environment (LRE), while Indicator 6 monitors LRE for preschool-age children. Indicator 7 looks at knowledge, behavior and social emotional development of pre-school aged children. Parent involvement in the IEP process is the focus of Indicator 8.

DOE considers other factors as well while conducting their risk-based analysis. These factors include investigating administrative complaints and due process findings, determining the LEA's current level of involvement with DOE for non-compliance (self-assessment, Corrective Action Plan and/or Compliance Agreement), careful monitoring of Needs Based Funding (+/- 5% difference in spending will trigger DOE to monitor) and the date of the LEA's last monitoring.

Tier III schools consist of LEAs who have demonstrated continued non-compliance. These schools will develop a Corrective Action Plan with DOE and will be subject to ongoing monitoring by DOE. Tier III LEA's will be required to work with DOE to identify and clearly define how they intend to correct the identified issues within a one year time frame. The one year time frame is established by Federal law. Sarah stated that there are currently several districts in Delaware that are classified as Tier III.

If a LEA continues to show non-compliance after one year they are classified as a Tier IV. At this point, a Compliance Agreement is created between DOE and the district/charter. Meetings between DOE and district officials (superintendent or assistant superintendent) will occur. There is a very limited time for Tier IV schools to act before there are consequences. As a consequence, DOE can direct the district/charter's funds as they see appropriate. For instance, if DOE observes that a Tier IV district is experiencing major issues with behavioral supports, DOE

can then direct that district's funds toward ensuring that functional behavior assessments and behavioral support plans are being developed and implemented. This could be accomplished by DOE by directing the district's funding toward additional personnel or resources. The final consequence of continued non-compliance for a Tier IV LEA would be complete removal of funds. Sarah stated that thus far, DOE has not had to take this action.

Sarah then requested that Barbara address Council regarding the timeline for the new results-driven accountability monitoring process. Barbara began by stating that Needs-Based Funding reviews will be conducted in October 2013. The October monitoring will consist of desk audits of schools that trigger for +/- %5 from last year's count. These schools are identified by DOE from data entered in IEP Plus and e-School.

In December 2013, DOE will begin looking closely at equitable services, which are services provided for parentally-placed private school children. Using data from the December 1 count, DOE will conduct desk audits after pulling data from IEP Plus and e-School. DOE will use this data to look at parentally-placed private school students who were evaluated and not eligible, students who were evaluated but not receiving services and students who were evaluating and who are receiving services. Barbara said that this is also known as Child Find.

In January 2014, Barbara informed Council that DOE will begin looking at equitable services more in-depth. Barbara shared that Delaware regulations state that public schools obligation to private schools falls under the umbrella of consultation. Barbara stated that "consultation" can mean many things, including direct or indirect services, conversation and collaboration. Barbara stated that there must be face to face meetings between the representatives from the public school district, representatives of the private school district and the parents of children with disabilities who have chosen to place their child in a private school. Barbara stated that at these meetings, there should be discussion from the public and private school district regarding how parents can access services if they choose to activate Child Find services. Barbara stated that this conversation should include an explanation to the parents of children with disabilities who have chosen to place their child in private school about the process the public school district uses to allocate funds for Child Find services. Also in January 2014, Barbara stated that DOE will be conducting further on-site visits to identified LEAs. Beginning in January 2015, additional LEAs will be randomly selected for on-site monitoring visits.

In February 2014, Barbara informed Council that DOE will hold follow-up meetings with the identified LEAs to follow up on their January monitoring. During the on-site monitoring visits, DOE and the identified LEAs will again review any areas of non-compliance and work on establishing timelines for the correction of these issues. Beginning in March 2014 through June 2014 DOE will focus on ensuring that identified LEAs are completing individual student corrections and providing professional development for LEA staff in the specified areas of concern. Barbara stated that DOE will be verifying these corrections and completion of professional development. DOE staff will also review additional files to verify systems change.

Sarah and Barbara then asked Council if they had any questions.

Wendy asked how many LEAs are being monitored using the new process this school year. Sarah answered that there are currently three districts and four charter schools being monitored.

Council member Bill Doolittle asked Sarah and Barbara about the usefulness of including due process findings in DOE's monitoring process, since many disadvantaged people cannot afford to go through a due process hearing and districts try to avoid due process hearings at all costs. Sarah replied to Bill, stating that DOE doesn't just consider due process findings, but that they also research cases which have gone to other forms of mediation. Sarah shared that some DOE staff members have begun keeping a shareable log of parent concern calls. Sarah stated that the shareable log is helping DOE to observe patterns (e.g. seventeen parents calling about the same teacher in the same district).

Council member Marie-Anne Aghazadian asked a question regarding the parental engagement data that DOE uses for their monitoring. Marie-Anne asked if this is based upon Indicator 8. Sarah replied that yes, DOE does base their monitoring of parental engagement upon the results of Indicator 8. Sarah acknowledged that Indicator 8 could be far more robust, and that DOE views it as an area which requires active improvement. Sarah explained that DOE is required to conduct a parent survey via a third party administrator. She explained that this short parent survey is entirely different from the climate survey. DOE is considering a different method of administering the survey. Currently the response rate is around 10%, which Sarah attributes to the method of dissemination. Surveys are sent via U.S. Mail to the student's address that is listed in e-School. Sarah stated that unfortunately many of these surveys are returned as undeliverable. Barbara stated that another concern DOE is dealing with is how to access specific sub-groups who are low responders. Council member Jean Butler suggested making the survey available online and also on paper at various community centers within the school district who are in no way affiliated with the district. Sarah and Barbara stated that this could be an option. Bill Doolittle stated that he feels parents should be involved in drafting the new parent survey. Bill said that if parents come across a survey that is too long or that has a question that does not apply to their child, they are unlikely to participate.

Council Co-Chair Dafne Carnright asked a question regarding Needs Based Funding. Dafne asked if school districts are required to disclose the specific amount of funding allocated for a child to that child's parents/legal guardians, and if that amount is written on the paperwork provided to the parents/legal guardians. Sarah replied that this issue has been a point of contention, and that DOE advises districts to go over a child's support needs with parents/legal guardians in the IEP meeting, and to state that the district can accommodate the child's needs at a [Basic/Intensive/Complex] level of service. Sarah stated that LEAs are not required to disclose the specific funding amount to parents/legal guardians. DOE has received significant pushback from the legal counsel and administrators of some LEAs. Sarah related that some LEA legal counsel and administrators have stated that they feel the specific funding amount needed to accommodate a child at their specified level of service should remain solely an administrative discussion and decision.

Bill O'Neill asked Sarah and Barbara to discuss Indicator 4, stating that he is aware of a district that has been on DOE's radar since 2004 that appears to not be making any progress. Bill stated that each year, this district has been required to do a self-evaluation and give themselves glowing results, which Bill said DOE then agrees with. Bill stated that he feels these schools need more intuitive direction, since they are technically complying with the required action, yet not seeing the desired results.

Sarah stated that DOE has become far stricter with Indicator 4. Currently, there are four school districts being monitored for non-compliance with Indicator 4. Christina School District and Red Clay School District are currently classified as Tier IV schools. Christina School District is under a Compliance Agreement with both DOE and the Office of Civil Rights (OCR). Capital School District and Colonial School District are currently at Tier III. Sarah stated that Capital School District has been making progress toward compliance, but still have work to do. DOE will continue to work with all four of these school districts. Barbara stated that as DOE moves toward full implementation of results-based monitoring, district superintendents will be required to attend meetings with DOE. Barbara said that she making attendance by district superintendents at DOE compliance-monitoring meetings mandatory will increase DOE's success rate with ensuring that all LEAs are in compliance.

Terri asked Sarah if DOE could present the findings of the new monitoring process to GACEC. Sarah stated that she will check with Mary Ann and get back to Terri. Council member Jane Donovan asked Sarah for a copy of her PowerPoint presentation, which Sarah stated that she will send to GACEC staff. GACEC staff stated that they will distribute the PowerPoint presentation to Council after receiving it from Sarah.

Following the conclusion of the presentation and question and answer period, Terri then directed Council's attention to the proposed GACEC meeting schedule. Terri asked if Council would like to keep the October 15, 2013 meeting, since it would occur in such a short time from the Retreat. Following discussion, a motion was made to not hold the October 15, 2013 meeting, but to allow the individual committees to meet on October 15 at their usual meeting time at their usual location if they chose to do so. The motion also included accepting the other meeting dates proposed on the schedule the same. The motion passed by a majority vote.

Terri then asked Council if they would like to vote on booking the Retreat at the Atlantic Sands again next year. Following discussion, Council agreed to have the Retreat again at the Atlantic Sands for the 2014 GACEC Fall Planning Retreat.

Terri requested that Council consult the list of potential speakers contained in their information packets. Following discussion, the list of potential speakers was accepted as written.

Terri asked that Council share what they are proud of. Wendy took this opportunity to distribute signs which were used at a June 2013 Legislative Hall event listing legislation that Council collaborated and provided comments and feedback on. These included:

- Senate Bill (SB)- 27 Gifted and Talented Start Up Grants
- House Bill (HB) 163- Transitional Foster Care Supports

- HB 125- Reinstatement of Parental Rights
- HB 42- Surrogates for Health Care Decisions
- HB 90- Enrollment Practices Used by Magnet Schools
- SB 100- Seclusion and Restraint in Public Schools
- SB 99- Dependent Children
- Senate Concurrent Resolution 20- Election Law Task Force

Wendy stated that these signs were just a small sampling of the many things Council has worked on over the past year. She encouraged everyone to consult the GACEC Annual Report legislative tracking charts for a full list of the numerous pieces of legislation and the many regulations that Council has collaborated and provided comments and feedback on. Wendy also stated that Council should feel proud of the assisting with the establishment of the University of Delaware (UD) Speech Language Pathology (SLP) Program. Wendy thanked Council for making this a great year.

Wendy informed Council that the State Transition Task Force for Emerging Adults with Disabilities and Special Health Care Needs final report has been completed. Wendy and Terri met with Governor Jack Markell, who voiced his support for the work of the Task Force. Gov. Markell asked Wendy and Terri to delay the distribution of the report until he distributed the report and gained support from all of his Cabinet Secretaries. Wendy distributed copies of the report's Executive Summary to the GACEC Committee Chairs.

Marie-Anne asked Council to remember that October is parent engagement month, and noted that the Parent Information Center (PIC) would be celebrating their 30 year anniversary.

Wendy shared information that she received from the State of Delaware Department of Technology and Information (DTI). DTI advised Wendy that Council members may wish to establish a separate email address for GACEC correspondence. This is a concern in the event that information contained in GACEC staff email to Council members is ever requested by the state or by a private citizen through a Freedom of Information Act (FOIA) request, then it is possible that the Council member's full email account that was receiving GACEC staff email might fall under the FOIA request. In order to preserve privacy in this unlikely event, Wendy asked the Council to consider setting up a "GACEC only" email account, and to inform staff if they have done so in order to keep GACEC contact lists properly updated.

Council member Karen Eller then gave a presentation and overview of a conference that she attended this summer. Karen shared the information that she obtained at the conference, which included several inspiring stories of children with disabilities achieving their goals. A key area of focus at the conference was the number students who are suspended, expelled or who never finished school and who end up in jail.

Due to the time, Council agreed to wait to hear Robert Overmiller's presentation and update on the state's Paratransit system until the next day. Council also agreed to wait to vote upon the Council goals and bylaws until they re-adjourned on Saturday, October 5.

The first portion of the full GACEC meeting was adjourned for the evening at 9:23 PM on October 4.

The second portion of the full GACEC meeting was re-adjourned at 8:47 AM on October 5.

Robert gave a presentation providing an overview of the many changes occurring with the state's Paratransit system which will negatively impact persons with disabilities in Delaware. Council agreed to continue to closely monitor the issue of accessible transportation in Delaware. Wendy and Terri thanked Robert for the information and for his dedication and hard work for Council.

Terri then asked Council to refer to the list of the GACEC's proposed goals for 2013-2014. Marie-Anne asked if anything would be done regarding the Maintenance of Effort (MOE). Wendy stated that documentation on the MOE was shared with Council. Some Council members said that they did not receive the information regarding the MOE. Terri stated that GACEC staff will re-send the information, and requested that Council review the information and share their comments with GACEC staff. Wendy stated that the goal is to have a letter drafted by the time of the Council's November 19 meeting. Marie-Anne reminded Council that the deadline for comments to be sent to the Office of Special Education Programs (OSEP) regarding Delaware's MOE agreement is December 2, 2013. A motion was made to accept the goals as written. Motion approved.

Terri then asked Council to refer to the typed copy of the GACEC by-laws contained in their folders, so that Council could discuss and vote upon the proposed changes to the by-laws. Based on Council feedback, a clarification was made on page 6 stating that charge of the Infant and Early Childhood Group is to focus on issues related to children with disabilities from birth to age five. The focus of the Children and Youth Committee was also clarified, stating that they are to concentrate on issues affecting children with disabilities from age five to age 26. Bill Doolittle stated that he had numerous concerns with Section 5 on page 3, which reads, "The Council may recommend removal of a member to the Governor for cause, including misfeasance, nonfeasance, malfeasance, misconduct or lack of attendance as described in Article X." Bill requested definitions of misfeasance, nonfeasance, malfeasance and misconduct, stating that he believes this portion of the bylaws is not allowed to be changed. Wendy assured Bill that the proposed bylaw changes had been reviewed by both the Attorney General's Office and GACEC legal counsel Brian J. Hartman, Esq., and found to be acceptable. Following discussion, it was agreed that GACEC staff would once again reach out to Brian Hartman and the Attorney General's Office to seek definitions for misfeasance, nonfeasance, malfeasance and misconduct. It was also suggested that examples of each definition be provided. A motion was made to vote upon the changes to the GACEC bylaws at the November 19, 2013 meeting. Motion approved.

Following this discussion, the meeting of the full Council was adjourned in order for Council members to meet with their individual issues committees in breakout sessions. The full Council meeting was adjourned at 9:45 AM on October 5.